IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1375 OF 1999

Hanil Era Textile Ltd. & Ord. ..Petitioners
Versus
The Commissioner of Police & Ors. ..Respondents

Mr.Manish Mistry i/b M.M.Vashi for petitioners
Mr.D.S.Mhaispurkar, APP for State.

CORAM : R.M.S.Khandeparkar &
P.V.Kakade, JJ.

DATE : 9TH FEBRUARY, 2005.

P.C.:

1. Heard.

2. The Petitioners seek to restrain the execution of warrants which may be issued by the Magistrate or Consumer Dispute Redressal Forum pursuant to the complaints filed by the shareholders or debenture holders of the Petitioner company. Reliance is sought to be placed in the decision of the Apex Court in the matter of Hanuman Prasad Gupta vs. Hiralal reported in AIR 1971 SC 206 and the decision of National Consumer Dispute Redressal Commission, New Delhi 1(1996) CPJ 233

(NC).

3. The decision of the Apex Court in Hanuman Prasad Gupta’s case rather cannot help to the petitioner to justify the contention of the petitioner. The Apex Court while dealing with the issue relating to the obligation of the company to pay dividend once declared as also regarding the place at which the court will have jurisdiction to try the offences pursuant to the failure on the part of the company to honour its promise arising under the cheque which is bounced as also the issue in relation to the place of payment of dividend, it was held that once a mode of payment of dividend is agreed to, namely, by posting cheque or a dividend warrant, the place to which the same is to be sent would also the the place of performance, as such performance in the manner agreed upon would be equivalent to the payment of the dues and will result in the discharge of the obligation. In view of the law laid down by the Apex Court, the decision of the National Forum holding that when a company goes public and various applicants from different places apply for shares, it does not mean that the cause of action will accrue to the applicants at the places they reside or are expected to receive the share

certificates, is not at all attracted in the case in hand. Besides, the law laid down by the Apex Court is binding on this Court.

4. Considering the decision of the Apex Court the execution of warrant if issued by the Magistrate on complaints filed by the shareholders or depositors, who are aggrieved by the acts of the Petitioner company, cannot be restrained on the ground of lack of jurisdiction. Hence the Petition is rejected.

R.M.S.KHANDEPARKAR,J.

P.V.KAKADE, J.